

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ERIC M. MISCOVITCH,</b>	:	
<b>Plaintiff,</b>	:	
	:	
v.	:	<b>CIVIL ACTION</b>
	:	<b>NO. 09-2699</b>
	:	
<b>LT. JUDGE, et al.,</b>	:	
<b>Defendants.</b>	:	
	:	

**ORDER**

**AND NOW**, this 30th day of April 2012, upon review of Defendants' Motion to Dismiss [Doc. No. 34], and Plaintiff's Response in Opposition [Doc. No. 38], and Defendants' Reply [Doc. No. 39, Ex. 1] and for the reasons set forth in the attached Memorandum Opinion, it is hereby **ORDERED** that:

1. Defendants' Motion to Dismiss is **GRANTED** as to the claims against Defendant DiGuglielmo, as he was not added as a defendant within the applicable statute of limitations;
2. Defendants' Motion to Dismiss is **DENIED** as to the claims against Defendants Zimmerman and Judge, without prejudice to Defendants' right to reassert the affirmative defenses of statute of limitation and failure to exhaust administrative remedies after the factual record is developed.

It is so **ORDERED**.

**BY THE COURT:**

/s/ Cynthia M. Rufe

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**CYNTHIA M. RUFÉ, J.**